IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.463 OF 2005.

Bhim Ram Arya : Appellant.

versus

The Municipal Corporation of

Greater Bombay : Respondent.

Mr.Dinkar Hungond for the appellant.

Mr.J.J.Xavier for the BMC.

CORAM : D.G.DESHPANDE,J.

DATED : 7th June 2005.

ORAL ORDER

1. Heard advocates for the appellant and respondent. The appeal is admitted and taken up for final hearing. The suit of the plaintiff was dismissed on 10.8.2004 by the City Civil Court. It was on board on 9.8.2004. On that day the plaintiff was absent so also his advocate. However, the stage of the suit was for filing

written statement by the defendant. On the date of dismissal on 10.8.2004 itself the plaintiff applied for restoration. That application was also rejected. In view of this, the appeal is required to be allowed. It is allowed. The impugned order of dismissal of suit is set aside. The suit is restored to file. Parties to appear before the City Civil Court on 20.6.2005. The defendant to file their written statement within 8 weeks therefrom. The suit to be decided according to law.

[D.G.DESHPANDE]

07/06/2005 JUDGE.